

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES DIVISION

In re:  
JOVEN SALES & SERVICES INC,  
Debtor.

Case No. 2:15-bk-13314-RK

Chapter 7

ORDER GRANTING MOTION OF  
LEADING INSURANCE CO., LTD., TO  
REOPEN CHAPTER 7 BANKRUPTCY  
CASE AND DIRECTING COUNSEL TO  
REMEDiate VIOLATION OF LOCAL  
BANKRUPTCY RULE 5010-1

Date: January 31, 2017  
Time: 2:30 p.m.  
Place: Courtroom 1675  
Roybal Federal Building  
255 East Temple Street  
Los Angeles, CA 90012

Pending before the court is the motion of creditor Leading Insurance Group Insurance Co., LTD. ("Leading") to reopen the above-captioned Chapter 7 bankruptcy case, Electronic Case Filing No (ECF) 6, filed on November 8, 2016. Leading requests that the Debtor's case be reopened so that Leading may file a motion for relief from the automatic stay seeking an order from this court allowing it to pursue a potential recovery from the insurance policy of Joven Sales & Services ("Debtor") in pending state court cases. Debtor filed an opposition to the Motion on January 19, 2017, ECF 9, to which Leading filed a Reply thereto on January 24, 2017, ECF 10.

1 Having considered the papers in support and in opposition of the Motion, the court  
2 determines that pursuant to Local Bankruptcy Rules 5010-1(e) and 9013-1(q), a hearing  
3 on the Motion is not required, nor necessary, takes the Motion under submission, vacates  
4 the January 31, 2016 hearing on the Motion as improvidently noticed by Debtor, and  
5 rules as follows on the Motion.

6 The court determines that the motion to reopen should be granted for “cause”  
7 under 11 U.S.C. § 350(b) and Federal Rule of Bankruptcy Procedure 5010 for the  
8 reasons stated in the moving papers, that is, for the purpose of allowing Leading to file  
9 with the court a motion for relief from the automatic stay to pursue Debtor’s insurance  
10 policy in state court actions involving the Debtor. “Although a closed Chapter 7 case  
11 need not be reopened for a creditor to pursue a tort action against the debtor . . . where  
12 any judgment will be covered by the debtor’s liability insurance . . . the court has  
13 *discretion to reopen* and to provide the tort claimant with the security of an order  
14 permitting it to pursue the state court action against the debtor.” 4 March, Ahart and  
15 Shapiro, *California Practice Guide: Bankruptcy*, ¶¶ 23:134 and 23:135 at 23-18 – 23-19  
16 (2016)(emphasis in original), *citing, In re Beeney*, 142 B.R. 360, 363-364 (9th Cir. BAP  
17 1992). While the court determines that it would exercise its discretion to reopen this case  
18 and allow Leading to prosecute a stay relief motion, the court does not express any view  
19 on the merits of any such stay relief motion, and Debtor may assert any appropriate  
20 defenses to any such motion.

21 Accordingly, IT IS HEREBY ORDERED that:

- 22 1. Leading’s motion to reopen the above-captioned Chapter 7 bankruptcy case is  
23 GRANTED pursuant to 11 U.S.C. § 350(b), Federal Rule of Bankruptcy  
24 Procedure 5010, and Local Bankruptcy Rules 5010-1 and 9013-1(q), and the  
25 court exercises its discretion and orders this bankruptcy case reopened in  
26 order for Leading to prosecute a stay relief motion.


- 1           2. The court determines that it is unnecessary for the United States Trustee to  
2           reappoint a Chapter 7 Trustee at this time.
- 3           3. The hearing on the motion to reopen set for January 31, 2017 at 2:30 p.m. is  
4           VACATED and TAKEN OFF CALENDAR. No appearances are required at the  
5           January 31, 2017 hearing on the motion to reopen.
- 6           4. Although the court grants the motion to reopen, the court observes that  
7           Leading's counsel, Michael Weiss ("Attorney Weiss"), who filed the Motion on  
8           Leading's behalf, acted contrary to Local Bankruptcy Rule 5010-1(e) by  
9           calendar a hearing date for the Motion without prior court authorization,  
10          which expressly provides that, "A motion to reopen may be ruled on without a  
11          hearing pursuant to LBR 9013-1(q). The movant must not calendar a hearing  
12          date nor will a hearing be held on the motion, unless otherwise ordered by the  
13          court."
- 14          5. Pursuant to Local Bankruptcy Rule 9011-3(a), to remedy the violation of Local  
15          Bankruptcy Rule 5010-1(e), Attorney Weiss is now ordered to read Local  
16          Bankruptcy Rule 5010-1(e) and file a declaration under penalty of perjury with  
17          the court stating that he has done so and now understands it on or before  
18          February 14, 2017. Failure to timely file this declaration with the court may  
19          result in the imposition of monetary sanctions against Attorney Weiss.
- 20          6. The court sets a further hearing on these sanctions against Attorney Weiss on  
21          February 28, 2016 at 1:30 p.m. for him to be heard if he seeks reconsideration  
22          of these sanctions. The hearing will be in Courtroom 1675, Roybal Federal  
23          Building, 255 East Temple Street, Los Angeles, California. If Attorney Weiss  
24          fails to file the declaration that he has read and understood Local Bankruptcy  
25          Rule 5010-1(e) as ordered, he is ordered to appear at the hearing on February  
26          28, 2016 at 1:30 p.m. If Attorney Weiss timely files the declaration, the court  
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1 will assume that he does not contest these sanctions, and the court will take  
2 the hearing off calendar.

3 IT IS SO ORDERED.

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23 Date: January 27, 2017

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Robert Kwan  
United States Bankruptcy Judge